

September 8, 2000

Local Boundary Commission Staff  
550 West 7th Avenue,  
Suite 1790  
Anchorage, Alaska 99501-3510

RECEIVED

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Division of  
Municipal & Reg. Assistant

Dear Local Boundary Commission Staff:

**Re: Petition for Consolidation of the Ketchikan Gateway Borough and the City of Ketchikan to the Municipality of Ketchikan, a Home Rule Borough**

With regard to the above referenced subject, responsive briefs, as well as informal written comments, supporting or opposing the City of Ketchikan's petition for consolidation of the Ketchikan Gateway Borough and the City of Ketchikan to the Municipality of Ketchikan, a home rule borough, have been filed with the Local Boundary Commission. As the petitioner's official representative, please consider this correspondence as the City's official reply brief to those comments received by the Local Boundary Commission through September 1, 2000.

The Department of Community and Economic Development has forwarded to the City copies of the three filings received by Local Boundary Commission Staff. The first, which was received from Diane Raab of Ketchikan, supports the petition for consolidation. Accordingly, the City of Ketchikan, as petitioner, offers no response to Ms. Raab's comments.

Although filed late, the Gold Nugget Service Area submitted comments to the Local Boundary Commission expressing concern regarding potential additional expenses that could be assessed against service area residents if consolidation occurs. The City does not dispute this assertion. As was indicated in Exhibit A, Statement of Principal Reasons for the Proposal to Consolidate, the City was forthright as to its intent that consolidation should provide for an equitable distribution of the management and cost of providing regional community services. Specifically, Exhibit A states:

"These areawide services will be provided by a governmental entity that represents the entire area served rather than by a sub-jurisdiction representing City residents only. All residents will become enfranchised regarding the management of these regional services and

infrastructure, and subsequently pay their proportionate share of the costs.”

Contrary to Mr. Staebell’s contention, not all City provided services are currently funded through sales taxes. Consequently, the assertion that all residents currently pay for areawide services provided by the City is not totally accurate. City residents do pay a disproportionate share for regional services that benefit the entire community. While the City recognizes the concern of the residents of the Gold Nugget Service Area, it also believes that the potential savings and governmental efficiencies resulting from consolidation are not given comparable consideration. The City’s transition plan and three year budget reflect that while some residents may pay more, there will be substantial savings to the community as a whole if consolidation occurs. The City maintains that the overall result is equitable and fair to all residents of what would become the consolidated home rule borough. A less costly, united and more efficient form of government is the ultimate goal of the City’s petition.

Lastly, the comments filed by the Gold Nugget Service Area provide no supporting documentation for the assertion that the State Troopers will be withdrawn from Ketchikan following consolidation. The proposed charter is specific in that police powers will be limited to service areas. It is not the intent of the petition or charter to have police powers exercised on an areawide basis. Consequently, the City does not anticipate the State Troopers being withdrawn from the community if consolidation occurs. Discussions with the Department of Public Safety have confirmed that consolidation in and of itself would not result in a decision by the State to withdraw the Troopers (see Exhibit A).

By correspondence dated August 22, 2000 the Ketchikan Gateway Borough submitted comprehensive comments to the State regarding the City’s petition. The balance of this response addresses the comments filed by the Borough.

The Borough’s response to the City’s petition was submitted to the Local Boundary Commission following receipt of a report from Vic Fischer, the independent consultant retained by the Assembly to review and analyze the City’s consolidation proposal. A copy of Mr. Fischer’s report to the Assembly is attached for Local Boundary Commission review (see Exhibit B). Mr. Fischer advised the Assembly that the City’s petition “clearly meets the requirements of state law and regulations governing municipal consolidation” and that “. . . it is not likely to be rejected . . .”

When considering the Borough’s response brief, the City believes it is important that the Local Boundary Commission review Mr. Fischer’s analysis, which appears generally favorable towards consolidation. In the absence of the Assembly taking a formal position, either in favor of or in opposition to the City’s petition, the City believes that the report takes on added significance.

The responsive brief submitted by the Borough address three (3) specific areas of concern:

- Specific Charter Language Changes
- Issues to be Addressed Through Charter Amendment

- Other Significant Changes

The City appreciates the constructive comments submitted by the Borough and offers the following response to the Local Boundary Commission:

### **Specific Charter Language Changes:**

The charter is the legally binding means by which residents will determine which powers are exercised and how new powers may be assumed by the consolidated home rule borough. During public hearings conducted by the City earlier this year regarding consolidation, residents consistently questioned how the new charter would limit the powers of the new borough government. Consequently, the City believes that the provisions of the charter must be given added consideration compared to other portions of the petition. Conversely, in certain cases the Borough's brief appears to represent the financial and transition plans as having equal weight with the proposed charter. The City respectfully disagrees. While the charter will be considered and, hopefully, approved by the voters, a newly elected Assembly and management staff are not obligated to adhere to either the financial plan or transition plan.

In order to facilitate Local Boundary Commission review regarding specific charter language changes proposed by the Borough, relevant excerpts from the draft charter have been repeated below in bold font. Revisions proposed by the Borough, when applicable, have been repeated in italics.

#### **1. Article XII, Section 12.01 Areawide and Non-areawide Powers.**

**Except as otherwise required by this Charter or by applicable state law, all powers of the Municipality may be exercised on an areawide, non-areawide, or service area basis.**

The Borough proposes to revise as follows:

*“All powers of the municipality may be exercised on an areawide, non-areawide, or service area basis.”*

Although not specifically detailed why, the Borough asserts there is some disadvantage to including the phrase “except as otherwise required by this charter or by applicable state law.” Although the deletion may not appear to be a material change, it is significant when considered in conjunction with proposals to delete Sections 12.02 and 12.03. The result is a charter that could essentially become silent as to what powers will be exercised on an areawide or non-areawide basis, other than those mandated by statute, i.e., education; assessment and collection of property, sales and transient occupancy taxes; and platting, planning and land use regulation.

Under such a change the revised charter would not distinguish other powers and on what basis they would be exercised. Consequently, Section 1.04 of the charter could potentially become the governing provision in that powers, other than those mandated by statute, would be exercised in **“such a manner as the Assembly or other authority may prescribe.”** This clearly is contrary to the underlying premises of the City's petition: (1) to retain as much of the status quo as possible; and (2) providing residents, in advance of the vote on consolidation, with a clear understanding of the

structure of the consolidated government and how it will affect them. The City recommends that Section 12.01 be retained as drafted.

**2. Article XII, Section 12.02 Mandatory Areawide Powers.**

**In addition to all other powers that the Municipality may exercise on an areawide basis, the following powers shall be exercised on an areawide basis:**

**(a) The power to dispose of solid waste, whether through recycling, landfilling, shipping, or any other means, and the power to operate, maintain, monitor, remediate, repair, or remove landfills, including those previously owned or operated by the City of Ketchikan, whether or not such landfills were in operation or were closed on the effective date of this Charter;**

**(b) The power to provide public libraries, civic centers, museums, and associated services;**

**(c) The power to provide for hospital and public health services, including, but not limited to, those services formerly provided by the City of Ketchikan's Gateway Center for Human Services. The power to provide emergency medical services shall be exercised as provided in Section 12.07;**

**(d) The power to provide public parks and recreation facilities and to provide recreational activities;**

**(e) The power to provide port and harbor facilities and services;**

**(f) The power to provide cemetery and mausoleum services;**

**(g) The power to provide 911 emergency dispatch services;**

**(h) The power to provide public transportation systems, including, but not limited to, airports (including airport police), air-taxi, and public mass transit (emphasis added);**

**(i) The power to provide animal control; and**

**(j) The power to provide economic development.**

Citing that restricting such powers as areawide may be unduly limiting, the Borough proposes to delete Section 12.02 in its entirety. Although the Borough contends that the transition and financial plans clearly indicate that these powers would be exercised on an areawide basis, a new Assembly would not be obligated to adhere to these portions of the petition. Again, by default Section 1.04 could become the governing provision of the charter. Under such a scenario the new Assembly of the consolidated borough would have to determine which, if any, of these powers would be exercised and whether associated services would be exercised on an areawide or non-

areawide basis. If exercised on a non-areawide basis, Saxman could be excluded from paying its proportionate share.

As was noted in Exhibit A of the City's petition, Statement of Principal Reasons for the Proposal to Consolidate, a major rationale for consolidation is that "areawide services will be provided by a government entity that represents the entire area served rather than a sub-jurisdiction . . ." and that "All residents will become enfranchised regarding management of these regional services and infrastructure, and subsequently pay their proportionate share of the costs." Although this premise is clearly specified in the transition and financial plans, the City believes it is desirable that the proposed charter reflect this intent as well. The proposed language within Section 12.02 accomplishes this purpose and the petitioner recommends that it be retained as drafted.

**Article XII, Section 12.03 Services Provided by Service Area.**

**(a) The following powers shall be exercised only through service areas:**

- (1) The establishment and operation of police departments, the hiring of police officers, or the contracting for the services of police officers;**
- (2) The establishment and operation of fire departments, the hiring of firefighters, and the contracting for firefighting services;**
- (3) The collection, but not disposal, of solid waste.**

**Nothing in this Charter, except Section 12.02, prohibits the Municipality from exercising any other power on a non-areawide basis or through services areas. No areawide power shall be interpreted to include or authorize any of the powers described in (1) through (3) above. Dispatching services for fire and law enforcement may, however, be provided areawide and shall be provided areawide for emergency 911 dispatching.**

**(b) Until otherwise changed, that area described in the consolidation petition as the Ketchikan Service Area shall be a service area for each and all of the powers described in (a) (1) - (3) above and for the power to build, operate, maintain, and replace roads, bridges, sidewalks, culverts, storm sewers, and drainage ways, and other public works. Except for the Shoreline Service Area, all other service areas in existence on the date this Charter becomes effective shall continue in effect until such time as changed as provided in this Article and the Municipality shall exercise the same powers within those service areas as were exercised by the former Ketchikan Gateway Borough. A new Shoreline Service Area with such territory, taxation, and services as are described in the consolidation petition shall be created on the date this Charter becomes effective and shall continue in existence until such time as changed as provided in this Article. By consolidation petition is meant that petition filed by the City of Ketchikan for the consolidation of the City of Ketchikan and the Ketchikan Gateway Borough with all exhibits and amendments.**

Expressing two sets of concerns, the Borough proposes to delete Section 12.03 in its entirety. First, and as it pertains to paragraph (a) of this section, the Borough cites the need to provide police and fire services as part of airport operations, as well as the need to provide solid waste collection in connection with operations of the Parks & Recreation and Port & Harbors Divisions. Although these issues will be further discussed and addressed below, public comments expressed earlier this year during community meetings regarding consolidation were abundantly clear, i.e., outlying residents do not wish to have police, fire protection and solid waste collection services extended beyond the City of Ketchikan as areawide powers. Additionally, adopting police protection as an areawide power could provide the State, if it is deemed desirable, the justification for removing the State Troopers from Ketchikan.

Secondly, the Borough proposes to move the provisions of paragraph (b) of Section 12.03 to the Transition Plan. This paragraph specifically addresses the powers and services to be exercised within the Ketchikan Service Area. As previously noted, the Transition Plan is not legally binding on the Assembly and management of the consolidated Borough. If and when approved by the voters, the draft charter is the means by which voters determine what powers are exercised and how new powers may be assumed.

The City reiterates its concern that the charter, not the transition and financial plans, is the binding document through which residents will consider consolidation. In order to protect the interest of both non-City and City residents alike, as well as to insure that the public recognizes what powers will be exercised and on what basis, the petitioner recommends that Section 12.03 not be substantially modified or deleted as the Borough proposes. Minor changes, which will be discussed later in this brief, are recommended to address the Borough's concerns regarding solid waste collection and police & fire suppression services at the Airport.

### 3. **Article XIII Saxman**

**The City of Saxman shall remain a separate municipal entity. Within its boundaries the City of Saxman may exercise museum, ports, harbors, parks, recreation, sanitary sewer powers, economic development powers and other powers it exercised prior to consolidation even though the Municipality exercises those same powers. Until otherwise provided by law, the City of Saxman shall continue to receive such areawide municipal services as it previously received from the Ketchikan Gateway Borough and services under this Charter or authorized by the Assembly pursuant to law.**

The Borough proposed to revise this section as follows:

*"The City of Saxman shall remain a separate municipal entity. Within its boundaries the City of Saxman may exercise those powers which it exercised prior to consolidation even though the municipality exercises those same powers. Until otherwise provided by law, the City of Saxman shall continue to receive such areawide municipal services as it previously received from the Ketchikan Gateway Borough and services under this charter or authorized by the Assembly pursuant to law."*

The Borough's rationale for the revisions to Article XIII are self-explanatory and require no elaboration on the part of the petitioner. Discussions with the City Administrator have confirmed that the Borough's revised language is acceptable to the City of Saxman (see Exhibit C). The City recommends that the proposal be accepted.

**Issues to be Addressed Through Charter Amendment:**

The Borough raises four (4) issues which the Assembly apparently believes require revision through amendment to the draft charter. Since no specific language is proposed, it is unclear as to whether the Local Boundary Commission is being requested to draft such language or whether the City is being requested to amend the proposed charter.

**1. Elimination of Public Vote on Revenue Bonds.**

The Borough seeks to amend Sections 11.01, 11.02, and 11.04 of Article XI, Borrowing, in order to eliminate the provisions requiring a public vote to approve the issuance of revenue bonds. The City recognizes the concerns expressed by the Borough and concurs with Mr. Fischer's assessment that the majority of municipalities are exempt from seeking voter approval for the issuance of revenue bonds. This issue was discussed at length by the City Council's Charter Review subcommittee, which concluded that the issuance of revenue bonds may potentially impact utility rates just as the sale of general obligation bonds can affect property taxes. The subcommittee concluded that residents should have input as to how their utility rates are likely to be impacted by the use of revenue bonds and that the existing provisions of the City Charter requiring voter approval of revenue bonds be extended to all residents of the consolidated home rule borough.

Additionally, Exhibit A of the City's petition, Statement of Principal Reasons for the Proposal to Consolidate, noted that all residents, particularly those living outside the City, will, as a result of consolidation, "become enfranchised regarding the management of . . . regional services and infrastructure . . ." Abolition of voter approval of revenue bonds, particularly as it relates to hospital, electric and telecommunication services & infrastructure, is contrary to this underlying premise of the City's petition.

The requirement of a vote on the issuance of both revenue bonds and general obligation bonds is an important restraint on the government's ability to expend revenues without the approval of the people who must pay for municipal services. It deters government from using rates and fees to expand services, which residents are opposed to paying for. The Local Boundary Commission need only consider the debt issues approved in 1996, including KPU's diesel generator acquisition, the Ketchikan General Hospital Renovations and Additions Project and the procurement of City firefighting apparatus, to see that Ketchikan residents are capable of rationally assessing the implications of incurring debt for legitimately required municipal improvements.

The Borough's proposal appears to be primarily the result of concern over ongoing airport improvements. The City does not believe that this issue should warrant elimination of public approval to issue revenue bonds. Among all of the projects potentially financed by revenue bonds, the petitioner believes that airport improvements would be among the easiest for which to secure voter approval. Airport revenue bonds

are likely to have the least impact on residents, which would make it more likely for the public to approve revenue bonding. The debt would be repaid either through landing fees or by passenger facility charges. Unlike revenue bonds for utilities, these fees and charges are paid not only by residents but by visitors as well. Visitors would pay a large portion of the bonding obligation. Lastly, airport projects are also more likely to receive federal and state funding assistance compared to other utility projects.

It is acknowledged that specific water and sewer projects may be more difficult to finance if voter approval is required on an areawide basis to secure the full faith and credit of the consolidated home rule borough. Conversely, doing away with such approval would greatly increase the consolidated home rule borough's ability to extend services and assess their costs to those areas of the Borough which do not desire them. One alternative would be to package such water and sewer improvements into multiple project bond issues, in order to attract broad based voter support.

The City does not believe that the Borough's concern is significant enough to warrant complete elimination of voter approval to issue revenue bonds. If there is, however, sufficient anxiety on the part of the Local Boundary Commission that the consolidated home rule borough's ability to undertake certain public improvements could be jeopardized, the State may wish to consider an alternative to the draft charter by authorizing a separate ballot proposition that would allow the Borough to issue revenue bonds without voter approval under specific circumstances:

- revenue bond issues under a certain dollar amount, established by ordinance;
- limited to specific type of public improvements; or
- a requirement that any utility rate/user fee impacts be determined and published prior to issuance of the bonds.

Although the City is cognizant of the rationale for such an approach, the petitioner does not believe it justifies disenfranchisement of Ketchikan residents.

## **2. Water Service as a Mandatory Areawide Power.**

The Borough appears to assert that water powers should be exercised on an areawide basis. Although paragraph (f) of Section 12.04 of the draft charter pertaining to non-areawide sanitary sewage powers being assumed as an areawide power is cited as the justification to maintain consistency, water powers are not currently exercised on a non-areawide basis. In fact, the exercise of non-areawide water powers was rejected by the voters in October of 1999. The Borough's proposal is contradictory to retaining the status quo and potentially is economically impractical as Ketchikan Public Utilities would in all likelihood have to assume the responsibility for exercising areawide water powers.

Currently, KPU operates a water system within a territory (essentially the City of Ketchikan) as determined by the Regulatory Commission of Alaska, the successor to the Alaska Public Utilities Commission. Prior to considering any change to the territory KPU serves, the RCA must determine whether a need exists for the extended service and whether the Utility is "fit, willing and able" to provide the extended water service. In



other words, the Commission will determine the extent to which water is provided on an “areawide” basis by the Utility.

The petition filed by the City mandates the status quo regarding KPU's Water Division. At any time the Utility may request to extend its certificated territory to include any or all of the Borough provided, however, that it can demonstrate that the expansion is necessary and convenient and that the Utility is fit and able to provide the service. The major problem with any such expansion is that the financing required would likely be prohibitive and that the resultant services would not be cost effective and convenient for residents outside the City. This problem does not go away should consolidation be approved. The City's petition is, therefore, structured to maintain the status quo.

The City's draft charter permits the new Assembly the ability to determine whether and how water service can be extended to outlying areas. This availability is limited, however, in two respects. First, the existing Ketchikan Public Utilities must continue to be operated as a utility in a business-like manner. This does not limit KPU's ability to undertake extensions of service, but requires that it be done so in a business-like manner and subject to regulatory approval. Secondly, the draft Charter protects water service areas by requiring approval of the service area voters before existing water service can be terminated and assumed by Ketchikan Public Utilities.

Although the petition maintains the status quo, staff believes that consolidation may permit the issues raised by the Borough to be addressed more easily by creating a governing body which will have a regional constituency and one that possesses unified lobbying capabilities.

### **3. Limitation of Police, Firefighting and Solid Waste Collection Powers to Service Areas; and Inclusion of the Airport Reserve within the Ketchikan Service Area.**

As discussed earlier, the Borough contends, based on Section 12.03 of the draft charter, that the consolidated home rule Borough would be prohibited from effectively operating the airport pursuant to its areawide transportation powers without concurrent areawide police, firefighting and solid waste collection powers. The brief additionally argues that solid waste collection powers would also have to be exercised on an areawide basis to operate other areawide services such as Parks & Recreation, Port & Harbors, the Library, etc. Finally, the Borough petitions the Local Boundary Commission to include the Airport Reserve within the Ketchikan Service Area.

Section 12.03 of the draft charter is intended to maintain the status quo and not permit police, firefighting and solid waste collection powers to be exercised in those areas of the Borough outside of the Ketchikan Service Area without a vote of the residents. The City contends that such services are ancillary to operation of the airport under the exercise of legitimate areawide transportation powers. If the consolidated home rule borough desired, for example, to contract with the Ketchikan Service Area to provide police and firefighting services to the airport, it would not be precluded from doing so. The cost of such services would be assessed, however, on an areawide basis as part of operating the airport under the exercise of areawide transportation powers. Similarly, the exercising of Parks & Recreation, Port & Harbors, Library, etc. powers on an areawide basis would not prohibit providing solid waste collection on a contractual basis either by the Ketchikan Service Area or a private operator.

Although not directly applicable, Sections 29.35.400 and 29.35.410 of Alaska Statute Title 29, Municipal Government, implicitly appear to support the City's position:

Section 29.35.400. General Construction.

A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

Section 29.35.410. Extent of Powers.

Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title (emphasis added).

These statutes would seem to affirm that the charter need not be revised to address this issue. The City would propose, however, the following revisions to Sections 12.02 (h) and 12.03 (a) of the draft charter (shown in italics and underlined) to address the Borough's concerns:

**Section 12.02 Mandatory Areawide Powers.**

**(h) The power to provide public transportation systems, including, but not limited to, airports (including airport police and firefighting), air-taxi, and public mass transit;**

**Section 12.03 Services Provided by Service Area.**

**(a) The following powers shall be exercised only through service areas:**

- (1) The establishment and operation of police departments, the hiring of police officers, or the contracting for the services of police officers;**
- (2) The establishment and operation of fire departments, the hiring of firefighters, and the contracting for firefighting services;**
- (3) The collection, but not disposal, of solid waste.**

**However, nothing in this charter will prevent the Municipality from providing police, firefighting or solid waste collection services at areawide expense when necessary to operate facilities used for areawide services; or to respond to a disaster as defined by state law.**

Nothing in this Charter, except Section 12.02, prohibits the Municipality from exercising any other power on a non-areawide basis or through services areas. No areawide power shall be interpreted to include or authorize any of the powers described in (1) through (3) above. Dispatching services for fire and law enforcement may, however, be provided areawide and shall be provided areawide for emergency 911 dispatching.

If the City's interpretation of this issue is correct, or should, alternatively, the Local Boundary Commission endorse the proposed revisions to the charter, the petitioner believes it is inappropriate to include the Airport Reserve within the Ketchikan Service Area. The Airport Reserve was never considered for inclusion within the Ketchikan Service Area under the City's petition. Since the Airport Reserve contains commercial enterprises that have not represented any desire to become a part of the City, the concept recommended by the Borough is a significant departure from the status quo.

Additionally, such a proposal would require Ketchikan Service Area residents to pay for what are legitimately areawide expenses, i.e., airport police, fire protection, solid waste collection and such other applicable services as detailed in paragraph (b) of Section 12.03 of the draft charter. This approach should be discounted as placing an unfair burden on residents of the Ketchikan Service Area. As discussed above, the petitioner believes that the objectives of the Borough can be addressed through other means.

#### **4. Areawide Police Powers.**

The Borough proposes to seek police powers (the authority to adopt and enforce laws) on an areawide basis, in order to address emergency situations "created by reductions in State law enforcement or persistent criminal activity outside of the city service area." Residents of the outlying areas have made it perfectly clear that they do not want police service and wish to retain law enforcement coverage through the State Troopers. If the Borough proposal were to be accepted, it may provide the State with the justification to withdraw its law enforcement coverage from the Ketchikan community.

The draft charter seeks to retain the status quo regarding police powers outside the Ketchikan Service Area. Unless the Borough can demonstrate that there is strong public sentiment to extend police services on an areawide basis, the City believes the concept should not be endorsed. Lastly, Section 12.07 of the draft charter regarding emergency medical services is not applicable. Such services are currently provided by the City to those areas with road access outside of the City of Ketchikan with the exception of Pond Reef. Conversely, police powers, other than those provided by the State Troopers, are not provided by the Ketchikan Gateway Borough or the City on either a non-areawide or areawide basis.

#### **Other Significant Changes:**

The Borough raises five (5) other issues which the Assembly asserts the Local Boundary Commission should address. The City is concerned that as part of its comments the Borough requests that the Local Boundary Commission review and analyze the petition on the Borough's behalf. The City believes that this is not an appropriate role for the Commission to undertake. The Borough's response should be evaluated on the basis of its stated content. It is not desirable or productive to request that the State supplement the information provided by the Borough.

**1. Loss of Village Safe Water and Alaska Housing Finance Corporation Rural Mortgage Programs.**

The Borough expresses concerns that consolidation may result in the loss of eligibility for ADEC's Village Safe Water Program and the Alaska Housing Finance Corporation's Rural Mortgage Program. The Borough further requests that the Local Boundary Commission determine what, if any, other programs may be affected and assess potential impacts in the LBC's staff report.

Although the City recognizes that these two programs could potentially be affected by consolidation, their significance may be over emphasized. The City has requested that ADEC determine whether a consolidated home rule borough is ineligible for funding under the Village Safe Water Program. As of the date of this correspondence, a definitive response has yet to be forthcoming. ADEC has advised the City, however, that beyond the current projects targeted for the Mountain Point and Shoup Street Service Areas, no new major projects for the Ketchikan Gateway Borough are under consideration at the present time. Assuming the worst case scenario that the consolidated home rule Borough would be ineligible under the Village Safe Water Program, the Borough fails to acknowledge that other programs are available to mitigate the loss of this funding source. The consolidated home rule borough would, for example, be eligible for the Department of Community and Economic Development and ADEC Municipal Matching Grant programs. The first program is seventy percent (70%) funded by the State, while ADEC makes available fifty percent (50%) matching grants.

Additionally, the Borough does not acknowledge the political advantage that the consolidated borough will have when approaching both the state and federal governments for funding. A consolidated government will best be able to establish unified community priorities instead of presenting competing city, borough and service area projects.

The Borough's concerns regarding the Alaska Housing Finance Corporation's Rural Mortgage Program are perhaps unnecessarily emphasized as well. On March 2, 2000 the City Council adopted Resolution No. 00-1970 opposing Senate Bill 150 and supporting an extension of the Rural Mortgage Program. SB 150 was legislation that proposed to repeal the interest rate benefit of AHFC's Rural Mortgage Program (set in law at one percent below the taxable/conventional rate). The legislation was proposed as a result of concerns by the bill's sponsors about the "fairness" of lower interest rates for home mortgages in small communities and in response to the LBC's concerns that the "small community housing mortgage loan program adversely [sic] impacts some municipal boundary proposals."

This program, which is expected to undertake \$135 million out of a total of approximately \$700 million in single-family home volume this year, offers a good opportunity for Alaska residents to obtain home a mortgage at reasonable rates in communities where conventional mortgage underwriting standards often are not applicable. As such, AHFC opposed SB 150 and offered changes which would have expanded the program in order to address the "fairness" issue and also to avoid any disincentives for municipal governments to incorporate or expand their boundaries. The cities of Ketchikan, Kenai, Homer, Kodiak and the AHFC Board of Directors expressed opposition to SB 150 and supported the proposed changes that would have expanded the program.

As indicated in the attached letter from John Bitney of the Alaska Housing Finance Corporation (see Exhibit D), the agency will continue to pursue these changes in the next legislative session. A resolution of support from the Ketchikan Gateway Borough similar to those enacted by the cities referenced above could potentially assist in this effort. If successful, the Borough's concern become moot. On the other hand, if SB 150 or similar legislation is enacted and the Rural Mortgage Program is abolished, the Borough's anxiety over the program would be unfounded.

Lastly, the Borough asserts that the petition's projected cost savings are not either accurate or verifiable. The Borough offers no analysis to support this conclusion, which is contrary to the findings of its own consultant's report which states that "local government economics and effectiveness are bound to improve through consolidation." This conclusion has been confirmed by earlier consolidation studies referenced in the City's petition.

## **2. Public Works Engineering as an Areawide Power.**

The Borough's responsive brief contends that the public works engineering function should be exercised as an areawide power. The draft charter and petition specify that the City's public works engineering function will be provided by the Ketchikan Service Area. This is intended to retain the status quo and to prevent the cost of City streets, storm sewers, bridges, etc. from being assessed against the outlying residents of the Borough. The City recognizes the need for engineering services on an areawide basis and has provided for the Ketchikan Service Area to provide such services to the consolidated home rule borough on a contractual basis. The City provided, for example, such services to the Borough in administering the Mile 4 North Subdivision. While the City's petition documents the need for public works engineering services in the Ketchikan Service Area, the Borough's brief does not justify providing such services on an areawide basis. Until such time until as it can be demonstrated that there is a need to assess the cost of the City's nine (9) person engineering division on an areawide basis, the petitioner believes it is more equitable to retain this function as a Ketchikan Service Area responsibility and to assess specific costs incurred for areawide services on a case by case basis.

## **3. Hyder and Myers Chuck.**

In the absence of the City's petition conforming with the Local Boundary Commission's model borough boundaries, the Borough's brief apparently seeks to have Hyder and Myers Chuck conferred special status similar to the language suggested for the City of Saxman. Inclusion of Hyder and Myers Chuck within the boundaries of the consolidated home rule borough was not considered in the preparation of the original petition. Consequently, the Borough's proposal to confer special status to these areas represents a significant departure from the status quo.

Additionally, unlike the City of Saxman, Hyder and Myers Chuck are not municipalities. They have no "corporate" existence. Special status cannot be conferred because they do not have the powers or legal existence that Saxman has. Hyder and Myers Chuck are more comparable to the unincorporated areas of Herring Cove or North Point Higgins. If the petition sought to extend the borough boundaries to conform with the State's model borough boundaries, one could plausibly argue that the residents of Hyder and Myers Chuck would share similar concerns to residents

of Herring Cove or North Point Higgins. As was evident when the Borough's attempted to annex these areas, residents strongly voiced their opposition and argued to preserve the status quo. The draft petition meets this intent and the City contends that special status is not warranted.

**4. Continuation of PERS Agreement through Transition Period.**

The Borough seeks to assign the responsibility of negotiating and executing a PERS agreement for the consolidated home rule borough prior to the dissolution of the existing City and Borough to insure that the current agreement does not lapse. Specifically, the Borough requests that this responsibility be assigned to the City. The City's petition intends that such an agreement would be approved by both governments during the interim period between the time that consolidation is approved by the voters and the time the first elected officers assume their seats. Both governments will be able to address this issue during the interim period. As the only alternative would be to immediately vest all employees with less than five years of service or to terminate their employment, no reason exists not to approve a newly negotiated agreement. Neither alternative would be equitable to the taxpayer or the employees of either government. Although the City has no objection to assuming the lead role in this effort, a specific revision to the charter or petition is not required.

**5. State Tax Cap Initiative.**

Both the City and the Borough are well aware of the pending ballot proposition pertaining to the proposed tax cap initiative. Should the proposition be approved, the City fully intends to review the impacts of the tax cap on the petition's three-year financial plan and budget prior to a vote on consolidation. If required, the three-year financial plan and budget will be modified and presented to voters well in advance of any consolidation vote.

**Petitioner's Revisions in Response to Comments by the Ketchikan Gateway Borough:**

As a result of staff's review of the Borough's comments regarding the petition, an additional change is proposed to Section 12.01 of the proposed charter. The change arises from apparent confusion over the definition of "non-areawide." Under Alaska Statutes "non-areawide" is defined to mean all of the borough outside any city. Within the consolidated government this definition would include everyone outside of the City of Saxman. Section 12.01 was intended as a general grant of power, not as a restriction. Staff did not intend to have Section 12.01 restrict powers to solely areawide, service area, or non-areawide as defined by state law. The following revision to Section 12.01 is proposed (shown in *italics and underlined*):

**Article XII, Section 12.01 Areawide and Non-areawide Powers.**

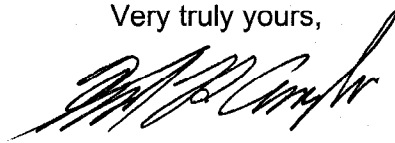
**Except as otherwise required by this Charter or by applicable state law, all powers of the Municipality may be exercised on an areawide, non-areawide, service area or other basis.**

**Conclusions:**

Assuming the proposed changes detailed within this reply brief are incorporated into the City's consolidation proposal that is pending before the Department of Community and Economic Development, the City believes that the draft charter and petition offer a persuasive argument for consolidation to the residents of Ketchikan. On the other hand, the issues and/or concerns raised by the Borough suggest an approach that dramatically departs from the status quo. It is the City's opinion that such an approach has the potential of greatly increasing the Municipality's power to extend services and to assess the cost of those services to residents of the Borough who do not desire them. This is contrary to the petition's stated goals and objectives.

Should you have any questions on this matter, please do not hesitate to contact me.

Very truly yours,



Karl R. Amylon  
City Manager and Petitioner's  
Representative

cc: Mayor and City Council  
Ketchikan Gateway Borough  
City of Saxman  
Ketchikan Gateway Borough School District  
Ketchikan Gateway Borough Service Areas  
Bob Newell, Finance Director  
Jim Voetberg, Assistant City Manager  
Steve Schweppe, City Attorney  
Katy Suiter, City Clerk

March 7, 2000

should be offered only in service areas when the Borough has non-area-wide sewer powers should be reviewed.

City Manager Amylon emphasized that if consolidation is being looked at as a cure-all for every negative attribute that either governmental entity has, that is not the case. He said it's a case of bringing together the two governments into one structure to more effectively manage local government on this island. He stated through that process you will probably find far better ways of operating than we do independently now, just because of the joint resources we can bring to the table. He said the petition does not go to that level, and it was limited to the redundancies and, to the extent possible, maintaining the status quo. He noted built into the charter is the flexibility for the Assembly to deal with the kinds of issues that are being raised, while attempting to accommodate the voters in the service areas.

Discussion regarding police powers at the airport took place, and Mayor Weinstein emphasized that the charter allows for contracting services between service areas.

Mayor Weinstein noted that since the last town meeting the city manager had some conversations with Ron Otte, and when in Juneau the assistant city manager and himself met with Mr. Otte, who indicated he stands by the letter he sent regarding the fact that consolidation in and of itself will not lead to the troopers being pulled out. He stated Mr. Otte said that if you look at the politics in the legislature and that certain legislators are not friends of Public Safety, the administration is not in control of what the Legislature might do. He explained he sent a letter to the Borough, since it seemed to have more impact on services outside the City, asking their opinion of police powers.

Mayor Shay said he didn't recall any comment regarding Mayor Weinstein's letter to the Assembly at their meeting last evening.

Richard Burton suggested that police powers be assumed borough-wide by the new municipality, but not exercised. He said this would give police the ability to exercise those powers when the time comes so there is no disagreement.

Mayor Weinstein noted that 911 calls are currently answered by the Ketchikan police department, and is provided to everyone in the Borough on an equal basis. Mr. Burton suggested adding a surcharge on telephone bills to help pay for these services, to which City Manager Amylon said this is currently being investigated, as well as other options.

Assemblymember Sallee expressed concern as a citizen who lives off the road system, and the fact that he does not have equal access. He stated it could possibly be a pro-rated type of basis for those in a situation such as his. Other discussion regarding EMS services and the provision to Borough residents took place.



# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

RONALD L. OTTE, COMMISSIONER

P.O. BOX 111200  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4322  
FAX: (907) 465-4362

July 6, 1998

**RECEIVED**

JUL 7 1998

COMMISSIONER'S OFFICE  
COMMUNITY & REGIONAL AFFAIRS

Mike Irwin, Commissioner  
Department of Community and Regional Affairs  
P. O. Box 112100  
Juneau, AK 99811-2100

Dear Commissioner Irwin,

In your letter dated June 23, 1998, you wrote concerning the effect of proposed consolidations of the city and borough governments in Ketchikan, Haines, and Fairbanks on Department of Public Safety operations and staffing in those areas.

Currently the Department of Public Safety provides police services to the portions of the Ketchikan, Haines, and Fairbanks North Star Boroughs outside of the respective city limits. The proposed consolidation of the city and borough governments where the police service area covered by municipal police remains unchanged would not alter this arrangement. If, at some future date, any of the consolidated boroughs elect to take on areawide police services, the Department of Public Safety would assess its need for personnel assigned in the affected area and make appropriate adjustments.

An issue worthy of consideration is whether the Legislature would cut Department of Public Safety personnel from the consolidated boroughs in an effort to encourage the boroughs to take on areawide police powers. The Legislature used this tactic for several years in the Hillside area of Anchorage creating significant problems for both the Department and the community.

Sincerely,



Ronald L. Otte  
Commissioner

cc: Colonel Glenn Godfrey, Director  
Alaska State Troopers

CS/cs

VICTOR FISCHER ASSOCIATES  
PO Box 201348  
Anchorage, Alaska 99520 USA  
(907) 276-7626 or 786-7718  
fax (907) 786-7739  
email afvf@uaa.alaska.edu

**TO:** Mayor and Assembly Members  
Ketchikan Gateway Borough

**FROM:** Vic Fischer, Consultant

**DATE:** Friday, August 11, 2000

**SUBJECT:** PRELIMINARY REPORT ON MUNICIPAL CONSOLIDATION PETITION

I have been asked to assist the Borough Assembly in reviewing the Petition for Consolidation of the Ketchikan Gateway Borough and the City of Ketchikan to the home rule Municipality of Ketchikan and in developing comments to the Local Boundary Commission (LBC) regarding the proposed consolidation.

The purpose of this report is to provide a basis for the Assembly work session scheduled for August 16. Principal documents used include the following:

- Petition, including exhibits, filed with the LBC by the City of Ketchikan
- November 18, 1999, Comments on Draft Charter for the City and Borough of Ketchikan by Borough Attorney Scott A. Brandt-Erichsen
- December 20, 1999, memorandum response by City Attorney Steven H. Schweppe
- February 2000 Consolidation White Paper by Borough staff
- March 3, 2000, comments on White Paper by City Finance Director Bob Newell

Interviews were conducted with borough, city, and Saxman officials to clarify issues and provisions pertaining to consolidation.

Before proceeding, a few words of limitation. There are many policy and technical aspects to a municipal consolidation, though in the end it is a political decision. In approaching this review, I have avoided matters that are essentially political in nature, such as history of previous votes, charter drafting, the consolidation process, extent of consultation, and the like. The city's procedures have followed state law, and the rest is for elected officials and voters to deal with.

Furthermore, this report does not go into financial, service area, and other specific matters with which you and your staff are much more familiar than an outside reviewer could be. Instead, what I attempt to do here is a policy oriented overview of the consolidation package and a focus on issues that may bear further discussion.

Starting off with a conclusion, it is my opinion that the City's petition clearly meets the requirements of state law and regulations governing municipal consolidation. The state constitution and regulations favor maximum local self-government with a minimum of local government units, and a Ketchikan city-borough consolidation would further that goal. Other fundamental state criteria are based on meeting standards for borough incorporation, and since the Ketchikan Gateway Borough already exists, those standards are essentially met.

While the petition is not likely to be rejected, the Local Boundary Commission does have the legal right to amend the petition and impose conditions for the consolidation. Thus, if the borough so desires, it can yet propose changes to be effected by the LBC or, for that matter, by the city.

#### THE CONSOLIDATION PETITION

The consolidation petition and its exhibits as submitted to the LBC stack up to nine inches in height. Much of the material provides background and backup to the petition, including city,

borough, and school fiscal reports. There is also a good deal of redundancy, in part due to state procedural requirements.

As a first-step, before delving into issues that the assembly may wish to consider for comment, we will look at the city's petition and focus on the portions that most clearly present what is proposed in the consolidation. Copies of these materials are being provided to assembly members.

#### **Petition for Consolidation ..., pp. 1-10 – Tab 1**

This is the formal request for the dissolution of the borough and city and the creation of the new home rule borough to be known as the Municipality of Ketchikan. It summarizes areawide and non-areawide powers, services, and taxes, and provides other required information. It references all exhibits, including geographic descriptions, proposed budget and financing plan, proposed home rule charter, and transition plan.

#### **Exhibit A, Statement of Principal Reasons for the Proposal to Consolidate, pp. 11-16 – Tab 2**

The city's stated reasons focus principally on efficiencies and effectiveness of a single regional government serving the entire Ketchikan area. Note in particular item 5, which lays out one of the petition's fundamental principles – that services which are areawide in nature should be paid for on an areawide basis.

#### **Exhibit D, Composition and Apportionment of the proposed Assembly, p. 36 – Tab 3**

Existing at-large elections are to be maintained for the mayor, assembly, and school board.

#### **Exhibit H, Brief, pp. 92-99 – Tab 4**

This required submission explains how the proposed consolidation satisfies the standards of the state constitution, laws, and regulations. In the process of doing so, it also further delineates the proposal's rationale, underlying principles, and parameters.

Section 1(pp. 92-95) lays out how the constitutional principle of maximum self-government with a minimum of separate local governments will be furthered as the existing second class borough and the home rule city are consolidated into a single home rule borough. It brings out (bottom p. 94, top p. 95) the important point that home rule provides the community with the ultimate measures of self-governance -- deciding through provisions and limitations of its charter what powers government may exercise and what its limitations are.

This section also explains that Saxman is to retain its second class city status within the new municipality in order to preserve its Native culture and enhance its ability to secure state and federal funding.

Section 5(pp. 96-98) deals with human and financial resources to provide municipal services. Several statements of the brief may be noted here:

- consolidation will not alter borough boundaries and will not alter current financial resources
- the new single government entity will be more efficient, smaller, and less costly to the community as a whole
- the new borough will provide only those services that are currently provided through the existing borough and city, and no new services are proposed
- thirteen services that are provided by the city but serve all borough residents will become borough services, financed on a community wide basis: emergency 911 dispatch, library, museum, civic center, mental health and substance abuse, hospital, public health, cemetery, solid waste disposal, ports and harbors, telecommunications (KPU), electricity (KPU), and water service (KPU initially to Ketchikan Services Area only)
- while the three-year annual budget is balanced based on some tax increase, the new municipal assembly will be able revise actual spending

**Exhibit I, Proposed Charter, p. 100 ff. – Tab 5**

The charter is the local government's constitution. As submitted to the LBC, the Charter of the Municipality of Ketchikan, Alaska, dated April 20, 2000, includes the key elements of a home rule charter. It lays out the structure and essential processes of the new borough, sets out basic powers and responsibilities, provides for the financial foundation, and reserves rights to the people (e.g., approval of bonding, service areas, etc.). The document is well drafted and easy to follow. The table of contents in the beginning and the index at the end facilitate ready reference.

(Most assembly members have probably had the opportunity to review the proposed charter in months past, but it might be useful to peruse the document again prior to the Wednesday work session. If the assembly so wishes, we could go through the whole document at that time.)

A few key points might be highlighted here:

- the assembly-manager form is maintained
- electric, telephone, and water services provided by KPU become municipal utilities
- sales tax increases and bonding require voter approval
- areawide powers include services transferred from the city
- police, fire, and waste disposal are to be exercised only through service areas
- rules for service areas are detailed
- Saxman remains a separate municipal entity, continuing to receive areawide services

**Exhibit J, Transition Plan, pp. 101-137 – Tab 6**

As required by the LBC, the transition plan is designed to provide for an orderly consolidation process. It addresses how existing powers and functions will be exercised upon the creation of the new borough and how city and borough assets and liabilities will be assumed as part of consolidation.

The transition plan provides a clear delineation of what changes will occur upon consolidation and how they will come about. It first details the powers and functions of the existing city (pp. 102-107) and of the existing borough, including its service areas (pp. 107-110). In a section on Change in Powers and Duties (pp. 110-124), the plan then explains how consolidation will affect services currently provided by the city and borough. Principal changes are:

1. assumption of additional areawide powers by the new borough, consisting of services of areawide benefit that were previously provided by the city, including KPU (pp. 113-117)
2. creation of three new service areas: the Ketchikan Service Area, encompassing the dissolved city and providing police, fire, and other services to its residents (pp. 118-121), the Greater Ketchikan EMS Service Area (pp. 121-122), and a new Shoreline Service Area (p. 122)

A useful summary of changes resulting from consolidation and of what services will be provided by which entity is found on pages 122-124.

**OVERALL EVALUATION**

As mentioned in the beginning, the consolidation petition is more than adequate to pass state review. Further consideration of several issues would, however, be appropriate.

Consolidation meets the constitutional goal of maximizing self-government while minimizing the number of government units.

It strives to have those who benefit from services pay for those services. One result of this policy is some shift of tax burden from current city residents to those outside the city. The extent to which equity comes at the expense of those unwilling to receive such services or pay for them is a political decision.

Although some powers and responsibilities for services are shifted, service delivery should not be affected and no new services are created. From that standpoint, the status quo is maintained within the consolidation parameters.

While one may argue about the specific efficiencies and savings that may be achieved, local government economics and effectiveness are bound to improve through consolidation.

The home rule charter provides an effective framework for the proposed municipality.

Regardless of what the city's transition and the three-year financial plans say, the new borough assembly elected areawide will be able to make appropriate changes if any provisions are deemed inequitable or unworkable.

### ISSUES FOR CONSIDERATION

As a first step, it is important to call attention to the exchange of memorandums between the borough and the city attorneys, copies of which are attached. In his November 18 memo to you (Tab 7), Mr. Brandt-Erichsen did a thorough and constructive job of commenting on the city's draft transition plan and charter. Equally important is City Attorney Schweppe's highly responsive response of December 9 (Tab 8). The exchange between the attorneys not only answered a myriad of specific questions, but it provides a legal statement of intent behind many provisions of the transition plan and charter. In some cases, charter provisions were revised in response to the borough attorney. Several points might be considered further by the borough, however, and these are mentioned here, with references to numbers in the attorneys' memorandums.

Similarly, the borough staff's Consolidation White Paper (Tab 9) and City Finance Director Newell's response (Tab 10) discuss a number of specific points. Several items could be resolved through effective collaboration among the respective staffs. In many instances of both these exchanges, resolution of issues may best be left to a new assembly upon consolidation.

The following are considered key issues for discussion by the borough assembly. Others may, of course, also be raised.

**Revenue bonds (28, 30, 31).** Charter sections 11.01, 11.02, and 11.04 (pp.30-33) require voter ratification of revenue bonds. While the city voters have had to approve KPU revenue bonds, this is a practice seldom found among municipal governments. It is highly questionable in the long run for the areawide municipality. And once such a provision is in a charter, it will be difficult to remove it if deemed desirable in the future.

**Powers.** Charter section 12.01 (p. 35) reads: "Except as otherwise required by this Charter or by applicable state law, all powers of the Municipality may be exercised on an areawide, non-areawide, or service area basis."

This provision is a proper follow-up to the general assumption of home rule powers in section 1.04 (p. 1).

However, the "except" clause is unnecessary and undesirable. The charter already states what is required, and that governs the exercise of powers. If there are state restrictions on home rule municipalities, they exist regardless of what it says here. The charter should not imply or invite state requirements.

It would be more appropriate to delete the initial clause and have the authorization read:

"All powers of the Municipality may be exercised on an areawide, non-areawide, or service area basis."

**Police protection (33).** Charter section 12.03 (p. 36) states that police functions can be exercised only through service areas.

While this provision may be politically expedient, it is highly questionable as a matter of responsible public policy. Police protection is a fundamental service of general local government. There is no guarantee whatsoever that state troopers will be there in the future to serve the borough's rural population, whether the new municipality formally adopts areawide police powers or not.

At the very least, as essentially suggested by borough staff, the new home rule borough should assume police protection as an areawide power, only exercising it within service areas unless

otherwise necessary for the protection of life and property or some other conditional basis. It is possible that a general areawide power of public safety is already assumed in the proposed charter under section 1.04, but even in that case the restrictions on provision of police and possible fire services should not be so rigidly emplaced in the charter. Please read the comments of both the borough and city attorneys. Aside from these considerations, this section seems to be in direct conflict with 12.02 (h), which provides for airport police to be part of an areawide mandate.

**Sewer service (34).** Charter section 12.03 (b) (p. 36) leads to an interesting discussion among the attorneys as to whether the sewer power should be a service area or non-areawide power. The issue is also raised in the borough staff paper.

**Saxman. Article XIII (p. 41).** The recitation of powers in the second sentence is unnecessary and undesirable. The second sentence should read:

"Within its boundaries, the City of Saxman may exercise all powers it exercised prior to consolidation even though the Municipality exercises the same powers."

I discussed this with the mayor and city administrator of Saxman, and they concur.

**Tax cap Initiative.** Municipalities throughout Alaska are concerned about the potential impact of a 10-mil property tax limit. If the tax cap were to be approved by state voters, the Ketchikan Service Area (current city) and several other service areas would be affected. The vote on this issue will come prior to a potential vote on consolidation. However, the Local Boundary Commission may require a contingency fiscal plan.

**City of Saxman**

2706 South Tongass  
Rt. 2, Box 1 - Saxman  
Ketchikan, Alaska 99901  
(907) 225-6450 FAX  
(907) 225-4166

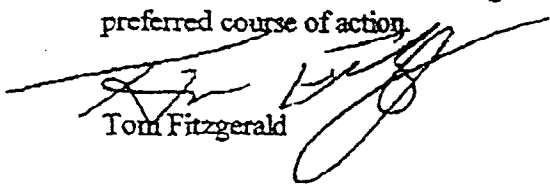
August 28, 2000

Assistant City Manager  
City of Ketchikan

RE: Wording of Article XIII.

Jim:

The wording contained in the Borough response on the page identified as page 2, paragraph 3) pertaining to the City of Saxman, meeting the understanding of the administration of Saxman and is agreed to as the best approach to describing the preferred course of action.



Tom Fitzgerald

Dan Bockhorst  
August 22, 2000  
Page - 2

2) In the long term interests of the Municipality of Ketchikan Sections 12.02 and 12.03 should be deleted, and the intent of restricting certain services to the city service area as set out in Section 12.03 should be moved to the Transition Plan. Restricting certain powers to only being exercised areawide (as proposed in Charter Section 12.02) may be unduly limiting. If the Consolidated Borough has all powers not prohibited by law or charter (Charter Section 1.04), the simple statement that the powers may be exercised on an areawide, non-areawide or service area basis is sufficient.

Regarding the limitations in 12.03, the restriction of exercise of these powers in this manner creates greater problems, as discussed below. The objective of initially limiting certain services to the city service area is better served through the Transition Plan as it is done for the new Shoreline Service Area and the new Emergency Medical Services Service Area. Placing these limitations in the Charter both clutters the Charter with temporary transitional provisions and precludes similar service being offered areawide or pursuant to an areawide power without a charter amendment.

3) Article 13 should be reworded to read: "The City of Saxman shall remain a separate municipal entity. Within its boundaries the City of Saxman may exercise those powers which it exercised prior to consolidation even though the municipality exercises those same powers. Until otherwise provided by law, the City of Saxman shall continue to receive such areawide municipal services as it previously received from the Ketchikan Gateway Borough and services under this charter or authorized by the Assembly pursuant to law."

The Borough believes that deletion of the specific enumeration of powers and use of a general reference to those powers enjoyed by Saxman currently will reduce confusion as to the interaction between exercise of a power by Saxman and exercise of the same power by the Consolidated Borough. Further, in the event that Saxman chooses to transfer one or more of these powers to the Consolidated Borough, the Charter would not be complicated by retaining the specific listing of the powers. Finally, the listing in Article 13, as drafted omits certain powers held by Saxman, such as water powers. In order to avoid errors through omission of specific powers a general reference to existing powers is preferable.

#### B. Issues to be Addressed Through Charter Amendment:

1) The Borough is concerned about the requirement for a public vote ratifying revenue bonds addressed in Charter Sections 11.01, 11.02 and 11.04. Normally, revenue bonds do not require voter approval. Two specific sources of concern regarding revenue bonds are water and sewer utility line development and enterprise operation capital improvements for either ports or the airport.

At the airport, for example, the Borough has used revenue bonds in the past for financing of a replacement airport ferry and airport-related structures. The Borough is also in the process of commissioning the design and construction of airport



August 22, 2000

Karl Amylon, City Manager  
City of Ketchikan  
334 Front Street  
Ketchikan, Alaska 99901

RECEIVED

AUG 25 2000

CITY MANAGER

Dear Mr. Amylon:

I was requested by your office to provide an update regarding legislation to modify AHFC's Rural Mortgage program. On March 2, 2000, the City of Ketchikan passed Resolution No. 00-1970 opposing Senate Bill 150 and supporting an expansion of the Rural Mortgage program.

To summarize, SB150 was legislation that proposed to repeal the interest rate benefit of AHFC's Rural Mortgage Program (set in law at one percent below the taxable/conventional rate). Sponsored by the Senate Finance Committee, SB150 was primarily advocated by Senator Dave Donley based on his concerns about the "fairness" of lower interest rates for home mortgages in small communities. In addition, the Local Boundary Commission's January 19, 2000 Annual Report stated that the "small community housing mortgage loan program adversely (sic) impacts some municipal boundary proposals."

AHFC's Rural Mortgage Program represents a significant portion of the loan business done by this corporation. For this year, the Rural Program expects to do about \$135 million out of a total of approximately \$700 million in single-family home loan volume. In addition, the program offers a good opportunity for Alaskan residents to obtain a home mortgage at reasonable rates in communities where conventional mortgage underwriting standards often aren't applicable. As such, AHFC opposed SB150 based on our concern for maintaining a home loan program for smaller Alaskan communities.

As part of our opposition to SB150, AHFC offered to address the concerns behind the legislation by proposing changes to the program. These changes would have expanded the program in order to address the "fairness" issue and also to avoid any disincentives for municipal governments to incorporate or expand their boundaries based on program qualifications.

In spite of support for these changes by the cities of Ketchikan, Kenai, Homer, Kodiak, and the AHFC Board of Directors, the legislature choose not to adopt these amendments into SB150. Nonetheless, AHFC intends to continue to pursue these changes next year when the session starts.



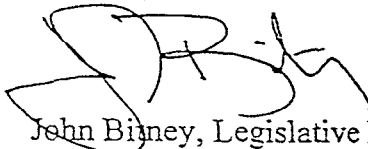
Karl Amylon, City of Ketchikan  
August 22, 2000  
Page 2

At this time, a legislator to sponsor the necessary legislation has not committed to introducing a bill. While it may be premature to commit a sponsor prior to the November general election, AHFC staff has been gathering public support for the legislation for when it can be introduced. For example, on June 27<sup>th</sup> I met with the Local Boundary Commission to brief them on our efforts and ask for their support regarding the proposed changes. (Chairman Waring indicated the Commission would likely look favorably on these changes once they are drafted in legislation.)

Again, AHFC intends to pursue legislation next session to get these changes adopted. Because the program is established in statute, legislation is the only means available to make the changes desired. After the November election, we intend to start soliciting a sponsor to introduce a bill with the changes.

If you or anyone you know has any suggestions on how we can get gather more public support for these changes, I am available and willing to speak or meet wherever convenient. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,



John Birney, Legislative Liaison  
Alaska Housing Finance Corporation

CC: Dan Fauske, AHFC CEO/Executive Director  
Paul Kapansky, AHFC Mortgage Director

Attachment: Discussion Paper on Conceptual Changes to Rural Loan Program